



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Imperial 400 Motor Inn

File: B-227270

Date: August 21, 1987

DIGEST

Geographical restriction in an IFB for a contract to provide meals and lodging for applicants for military duty requiring bidders to be located within a 12-driving-mile radius of the agency's processing center does not unduly restrict competition where the agency reasonably determined, based on its experience with the protester's more remote facility, that the restriction would improve efficiency, and that adequate competition was available within the 12-mile area.

DECISION

Imperial 400 Motor Inn of Durham, North Carolina, protests the award of any contract under invitation for bids (IFB) No. DAKF40-87-B-0085, issued by the Department of the Army, for meals and lodging for armed forces applicants for the Military Entrance Processing Station (MEPS), Raleigh, North Carolina. The IFB limits competition to bidders who provide facilities within a 12-driving-mile radius of the MEPS. Imperial contends that this limitation is arbitrary and not based on knowledge of local conditions.

We deny the protest.

Imperial, the incumbent contractor, contends that the 12-mile requirement is unduly restrictive because there are no qualified bidders within the 12-mile area capable of meeting the Army's needs. Imperial states that in prior years the 12-mile area restriction resulted in bids from no more than two qualified bidders. Imperial contends that last year it convinced the Army of the disadvantages of the 12-mile limit, namely the "firm" lodging market in that area, which discouraged bidder interest in competing. As a result, the Army used a 20 mile limit and Imperial, which is exactly 20 miles from the MEPS, was able to compete with the other two bidders for the contract. Imperial alleges that due to a change in the current specifications which requires

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that the bidder provide a meeting room for 40 people, neither of the other two prior years' bidders are capable of meeting the terms of this IFB. Imperial states that it is capable of meeting the terms of the IFB, but for the 12-mile restriction, and that it is successfully performing the current contract.

The Army reports that the decision to return to a 12-mile limit was not related to Imperial's performance, but was based on difficulties experienced by MEPS and the recruiting services in administering the contract, and on the changing mission of the MEPS. The Army states that it incurred excessive transportation costs due to the remote location of Imperial's facility which negated the initial savings in awarding the contract to Imperial. Further, the increased travel time and distance diminished the ability of the recruiting services to accomplish their mission of "selling" the military as a career. This is due to recruiting time lost while applicants and MEPS personnel travel over a 20-mile distance, negative physiological and psychological effects that result from travel inconveniences, increased expenditures and time to perform quality assurance surveillance, and increased exposure to vehicular accidents.

In addition, the MEPS' mission has changed over the last year due to the issuance of a new agency directive entitled "modular processing," which requires the recruiting services to explore new ways to improve the "red carpet" treatment of applicants by eliminating dead time and providing more personalized treatment. The "red carpet" program is designed to improve the professional image of the military recruitment process. The Army states that this new initiative can best be accomplished by using a facility within a 12-mile radius of the MEPS.

Regarding Imperial's allegation that no bidder in the restricted area can meet its need, the Army reports that it has identified 12 hotels within the 12-mile range that can meet its needs. Moreover, expanding the range to 20 miles in the previous year produced only one additional bidder, the protester. After considering these factors, the Army determined that the 12-mile radius limitation was necessary for the procuring activity to meet its minimum needs.

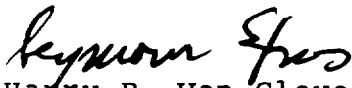
When a protester alleges that specifications unduly restrict competition, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary to meet its actual minimum needs. Daniel F. Young, Inc., B-223905, Nov. 19, 1986, 86-2 C.P.D. ¶ 586. This requirement reflects the agency's obligation to create specifications that permit full and open competition to the extent possible, consistent with the agency's actual

needs. 41 U.S.C. § 253(a) (1985). The determination of the government's minimum needs, the best method of accommodating those needs, and the technical judgments upon which those determinations are based are primarily matters which are the responsibility of the contracting agency. Daniel F. Young, Inc., B-223905, supra. A geographical restriction may be imposed where the agency shows that it is reasonably necessary to meet its minimum needs. Treadway Inn, B-221559, Mar. 10, 1986, 86-1 C.P.D. ¶ 236. Once the agency establishes support for the challenged geographical restriction, the burden shifts to the protester to show that the restriction in dispute is clearly unreasonable. Daniel F. Young, Inc., B-223905, supra.

We find that the Army has established prima facie support for the 12-mile geographical restriction. In Treadway Inn, B-221559, supra, a protester challenged an Army 5-mile geographical restriction for a similar requirement at the MEPS in Wilkes-Barre, Pennsylvania. We recognized that increasing efficiency, reducing the possibility of highway accidents, and improving the impression that the processing has on the applicants provide a legitimate basis for the restriction. Here, it appears that some of the transportation costs associated with the longer distance will decrease because the current IFB was amended to require the contractor to provide additional transportation for applicants from the hotel to the MEPS, as part of the cost of the lodging. However, the Army's other reasons provide a sufficient basis for the 12-mile geographical restriction. Id.

Imperial also contends that there will be no responsible bidder that can meet the terms of the IFB. The initial bid opening of May 22, 1987, was extended on May 18, 1987, pending the resolution of this protest. Imperial speculates that the agency did not receive one bid by May 18, which would support Imperial's contention. The Army advises that a few bids were received by the day before the scheduled bid opening, and that others were expected. Consequently, the record does not show that the 12-mile geographical restriction will sharply curtail competition. Imperial has not provided any other evidence that the Army's basis for the restriction is unreasonable.

The protest is denied.

for 
Harry R. Van Cleve
General Counsel